



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 12, 1998

Ms. Kristi A. Taylor
Neiman & Barnes, L.L.P.
386 West Main
P.O. Box 777
Lewisville, Texas 75067

OR98-0687

Dear Ms. Taylor:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 113414.

The Lewisville Police Department (the "department"), which you represent, received a request for any information concerning case number 97-9919. You contend that the requested information is excepted from disclosure by section 552.108 of the Government Code.

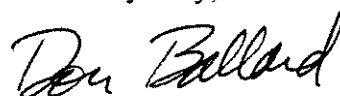
The Open Records Act imposes a duty on governmental bodies seeking an open records decision pursuant to section 552.301 to submit that request to the attorney general within ten business days after the governmental body's receipt of the request for information. The time limitation found in section 552.301 is an express legislative recognition of the importance of having public information produced in a timely fashion. *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.--Austin 1990, no writ). When a request for an open records decision is not made within the time period prescribed by section 552.301, the requested information is presumed to be public. See Gov't Code § 552.302. This presumption of openness can only be overcome by a compelling demonstration that the information should not be made public. See, e.g., Open Records Decision No. 150 (1977) (presumption of openness overcome by a showing that the information is made confidential by another source of law or affects third party interests).

It appears from the face of the request that the department received the request for information on December 3, 1997. You did not seek a decision from this office until December 18, 1997. Consequently, you have not met your statutory burden. Gov't Code § 552.301. The requested information is therefore presumed public. In the absence of a demonstration that the requested information is confidential by law or that other compelling reasons exist as to why the information should not be made public, the department must

release the information. Open Records Decision No. 195 (1978). *See also* Gov't Code § 552.352 (the distribution of confidential information is a criminal offense).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in black ink that reads "Don Ballard". The signature is written in a cursive, slightly slanted style.

Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 113414

Enclosures: Submitted documents

cc: Mr. Mark Rankin
1600 Amelia Court # 823
Plano, Texas 75075
(w/o enclosures)